

Bosnia and Herzegovina

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LAW ON THE AUDITING OF THE FINANCIAL OPERATIONS OF THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA

I BASIC PROVISIONS

Article 1

This Law provides for establishment and method of working of the Office for Auditing of the Financial Operations of Institutions of Bosnia and Herzegovina, appointment of the Auditor General, Deputy Auditor General, Acting Auditor General and Acting Deputy Auditor General, defines authorities, powers and responsibilities of the Auditor General, kinds of auditing and submission of audit reports, establishment and function of the Coordination Committee of the Supreme Audit Institutions and quality assurance of the Audit Office for the Financial Operations of the Institutions of Bosnia and Herzegovina

General definitions

Article 2

In this Law, the terms used have the following meaning:

“Office for Auditing of the Financial Operations of the Institutions of BiH” means the Supreme Audit Institution for Financial Operations established by article 3 of this law;

“Auditor-General” means the person appointed to the post under this Law;

“Co-ordination Committee” means the technical committee comprising the Auditors-General of the Supreme Audit Institutions in Bosnia and Herzegovina established by article 29;

“Institutions” means all institutions of Bosnia and Herzegovina determined by the constitution and the law, any government agency, or any company in which the government has a share-holding, regardless of the size of that share-holding;

“House of Parliament” means each separate chamber of Parliament;

“Minister” means the Minister responsible for Finance;

“Performance audit” in relation to a person or body, means a review or examination of any aspect of the operation of that person or body;

“Presidency” refers to the Presidency of the Presidency of Bosnia and Herzegovina;

“Pre-audit” refers to the examination or certification of accounting transactions as part of the accounting system;

“Responsible Minister” means the Minister within whose portfolio responsibility for the area under review falls.

"Authorized Official" means any official appointed by the Auditor General, in writing, to carry out duties or functions;

"Premises" means any building, office, land or site.

II OFFICE FOR AUDITING OF THE FINANCIAL OPERATIONS OF THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA

Foundation

Article 3

(1) The Supreme Audit Institution is established under the name of the "Office for Auditing the Financial Operations of the Institutions of Bosnia and Herzegovina" (Hereinafter: Audit Office).

(2) The Audit Office comprises the Auditor General and staff identified under Article 5. of this law.

Function

Article 4

Function of the Audit Office is to help the Auditor General in carrying out his task of Auditor General.

Staff

Article 5

Staff of the Audit Office shall be appointed in accordance with the Rules of Service agreed between the Auditor General and the Council of Ministers, which must not be less advantageous than the ones provided for government servants of Bosnia and Herzegovina.

III AUDITOR GENERAL

Auditor General

Article 6

- (1) There shall be an Auditor-General for the Financial Operations of the Institutions of Bosnia and Herzegovina appointed under this Law.
- (2) The Auditor-General shall be appointed by the Presidency acting only in accordance with the advice of both Houses of the Parliamentary Assembly of Bosnia and Herzegovina;
- (3) The Auditor-General shall be appointed for a fixed, non-renewable period of five years. The Auditor-General should not normally be aged over sixty years old on appointment.
- (4) The Auditor-General may resign in writing to the Presidency.
- (5) The Presidency may remove the Auditor-General from office only if each House of Parliament passes a motion asking for the removal of the Auditor-General on the grounds of misbehavior or the quality of audit work fails to meet the standards determined in accordance with Article 9 of this Law.
- (6) The Auditor-General's salary and allowances shall be prescribed in the Regulations made in accordance with this Law and should not be less than those that would be paid to a national holding the position of Governor of the Central Bank. Such salary and allowances will be a direct charge to the budget.
- (7) The appointment of the Auditor-General and any cessation of appointment shall be reported in the Official Gazette of Bosnia and Herzegovina and Official Gazettes of the Entities.

Deputy Auditor-General

Article 7

- (1) There shall be two Deputies to the Auditor General for the Financial Operations of the Institutions of Bosnia and Herzegovina appointed under this Law.
- (2) The Deputies to the Auditor General shall be appointed by the Presidency acting only in accordance with the advice of both Houses of the Parliamentary Assembly of Bosnia and Herzegovina;
- (3) The Deputy Auditor General shall be appointed for a fixed, non-renewable period of five years. The Deputy Auditor General should not normally be aged over sixty years old on appointment.
- (4) Deputy Auditors-General shall be appointed from the other two constituent peoples nationalities than that from which the Auditor-General has been appointed.
- (5) The Deputy Auditor General may resign in writing to the Presidency.
- (6) The Presidency may remove the Deputy Auditor General from office only if each House of Parliament passes a motion asking for the removal of the Deputy Auditor General on the grounds of misbehavior or the quality of audit work fails to meet the standards determined in accordance with Article 9 of this Law.

(7) The Deputy Auditor General's salary and allowances shall be prescribed in a separate act, in accordance with this law.

Acting Appointment

Article 8

(1) The Presidency shall appoint a Deputy Auditor-General to act as Auditor-General:

- (a) if there is a vacancy in the office of Auditor-General; or
- (b) during any period when the Auditor-General is absent from duty or is, for any reason, unable to perform the duties of office.

(2) An Acting appointment shall not exceed a period of six months.

(3) A person Acting under this article is entitled to the same remuneration and allowances as apply to the office of Auditor-General.

(4) The appointment of an Acting Auditor-General and any cessation of that appointment shall be reported in the Official Gazette of Bosnia and Herzegovina and Official Gazettes of the Entities.

IV MAIN FUNCTIONS AND POWERS OF THE AUDITOR-GENERAL

Duties of the Auditor-General

Article 9

(1) In discharging his duties under this Law, the Auditor-General shall satisfy himself:

(a) that all reasonable precautions have been taken to safeguard the collection and custody of revenues and that the law, instructions and directions relating thereto have been duly observed;

(b) that the disbursement of revenues, including extra budgetary funds, has taken place under the proper authority and for the purposes intended by such authority;

(c) that all reasonable precautions have been taken to safeguard the receipt, custody, issue and proper use of public reserves, and that the instructions relating thereto have been duly observed.

(2) In addition to his duties under paragraph (1) the Auditor-General shall draw to the attention of the Minister and the responsible Minister any apparent lack of economy, efficiency or effectiveness

(a) in the collection and custody of revenues.; and

(b) in the expenditure or utilization of revenues, including extra budgetary funds, or reserves.

Duties not to be undertaken

Article 10

- (1) The Auditor-General shall not undertake any pre-audit examination or certification of accounting transactions as part of the accounting system where in his opinion this would preclude the proper exercise of his functions under this Law. In case that such refusal occurs, the Auditor General must deliver in writing the reasons for refusal to the requesting institution, within 56 days from the day of their submitting the original request;
- (2) The Auditor-General shall not undertake any duties outside those he is required, by or under this Law, to perform if he considers that such duties are incompatible with the responsibilities of his office.

Functions under other Laws

Article 11

The Auditor-General's functions include any functions given to the Auditor-General by any other Law.

Delegation by the Auditor-General

Article 12

- (1) The Auditor-General may, by written instrument, delegate any of the Auditor-General's powers under any Law to any Audit Office employee or contracted staff. The Auditor-General may not delegate his responsibilities in any case.
- (2) In exercising powers of functions under the delegation, the employee or contracted staff member must comply with any directions of the Auditor-General.

Accounts and Audit

Article 13

- (1) The Auditor General carries out annual audit of public accounts, which includes all ministries, offices, courts and bodies of Government, public funds to the extent that the accounts are available, except in the case described under paragraph (6) of this article and reports to the Parliamentary Assembly of Bosnia and Herzegovina.
- (2) Where the public accounts of any defined body are not made available within six months after conclusion of the reconciliation period, the Auditor General shall notify the Parliament of Bosnia and Herzegovina of that fact.
- (3) The Auditor-General's functions in relation to public accounts include but are not limited to auditing financial statements or reports of:
 - (a) enterprises, companies, organizations or institutions partially or wholly owned, controlled or funded from the government budget or other funds controlled or guaranteed by Bosnia and Herzegovina;

(b) institutions or activities which receive government funds or funds provided by any external organization, either as a loan or grant, to Bosnia and Herzegovina.

(4) In reporting on the public accounts referred to in paragraphs (1) and (2), the Auditor-General shall report:

(a) whether the accounts have been compiled in accordance with all relevant legislation;

(b) whether the annual accounts present a true and fair view of the operations for the year and of the position at the year end; and

(c) on the economy, efficiency and effectiveness with which the organization has used its resources in discharging its functions.

(5) The Auditor-General shall submit his reports to the Presidency and Parliamentary Assembly of Bosnia and Herzegovina, and he shall also send a copy of each report to the Finance Minister and the responsible Minister concerned.

(6) Until December 31, 2002, the Auditor General shall not have to report on all public accounts defined under paragraph (1); however, he will have to provide to the Parliament of Bosnia and Herzegovina an abstract of all public accounts published, and those audited, taking into account the funds made available to the Auditor General. In determining the time during which the accounts shall be audited, the Auditor General shall set forth the priorities, taking into account the importance of the amounts at issue, and probability of loss for the Government.

Performance Audits

Article 14

(1) In terms of economy, efficiency and effectiveness the Auditor-General may at any time conduct a review or examination of a particular aspect of the operations of the whole or part of any institution of which the Auditor-General has the right to undertake audits.

(2) As soon as practicable after completing the report on an audit under this article, the Auditor-General shall submit his report to the Presidency who shall cause it to be laid before Parliament; and he shall also send a copy of each report to the Finance Minister and the responsible Minister concerned.

(3) The Auditor-General may give a copy of the report to any other Minister who, in the Auditor-General's opinion, has a special interest in the report.

Comments on draft reports

Article 15

(1) After preparing a draft performance audit report, the Auditor-General must give a copy of the draft report to the head of the administration of the institution concerned.

(2) If the recipient of the draft report gives written comments to the Auditor-General within 28 days after receiving the draft report, the Auditor-General must consider those comments before preparing a final report and where there is disagreement include those comments in the final report to be laid before Parliament of Bosnia and Herzegovina.

Special Audits and Audits by arrangement

Article 16

(1) The Auditor-General may at any time carry out special audits at the request of the Parliament of Bosnia and Herzegovina or at the specific request of a related institution.

(2) The Auditor-General may enter into an arrangement with any person or institution:

(a) to audit financial operations of the person or institution;

(b) to conduct a performance audit of the person or institution;

(c) to provide services to the person or institution that are of a kind normally performed by auditors.

(3) Special audits and audits by an arrangement may provide for the payment of fees to the Auditor-General. The fees are to be received by the Auditor-General on behalf of the government.

(4) The Auditor-General must not perform functions under this article for a purpose that is outside the government's legislative power.

Auditing Standards

Article 17

(1) The Auditor-General must implement the audit standards as approved by the Co-ordination Committee and ensure that such standards that are complied with by persons undertaking any audit function under this Law.

(2) If the Auditor-General becomes aware of any breaches of these standards, the Auditor-General must report on the breaches in a report under Article 18.

Extra reports to the Parliamentary Assembly of Bosnia and Herzegovina

Article 18

(1) The Auditor-General may at any time cause a report to be tabled in the Parliament of Bosnia and Herzegovina on any matter.

(2) The Auditor-General must give a copy of the report to the Presidency, the Finance Minister and to any other Minister who, in the Auditor-General's opinion, has a special interest in the report.

Extra reports to Ministers

Article 19

(1) The Auditor-General must bring to the attention of the responsible Minister any important matter that comes to the attention of the Auditor-General while:

(a) conducting an audit; or

◊(b) performing other functions.

For this purpose, “important matter” means any matter that, in the Auditor-General’s opinion, is important enough to justify it being brought to the attention of the responsible Minister.

(2) The Auditor-General may at any time give a report to any Minister on any matter.

Contracting outsiders to assist with audits

Article 20

The Auditor-General, on behalf of the Government, may engage any person under contract or in a working relationship, to assist in the performance of any Auditor-General function.

Annual report of the Audit Office

Article 21

Within three months after 31 December each year, the Auditor-General must:

(a) prepare a report on the operations of the Audit Office during that year; and

(b) cause a copy of the report to be tabled in each House of Parliament.

V INFORMATION GATHERING POWERS AND SECRECY

Information gathering powers not limited by other laws

Article 22

The operation of articles 24 and 25 is not limited by any other law, except to the extent that the other law expressly excludes the operation of these articles.

Purpose for which information gathering powers may be used

Article 23

The powers of articles 24 and 25 may be used for the purpose of, or in connection with, any Auditor-General function, except:

(a) an audit or other function under article 11;

(b) preparing a report under article 18 or 19;

(c) reporting breaches of auditing standards set under article 17.

Power of the Auditor-General to obtain information

Article 24

(1) The Auditor-General may, by written notice, direct an institution to do all or any of the following:

- (a) to provide the Auditor-General with any information the Auditor-General requires;
- (b) to attend and give evidence before the Auditor-General or authorized official;
- (c) to produce to the Auditor-General any documents in the custody or under the control of the person.

(2) The Auditor-General may direct that:

- (a) the information or answers to questions be given orally or in writing;
- (b) the information or answers to questions be verified or given by statement or affirmation.

The statement or affirmation is a statement or affirmation that the information or evidence the person will give will be true and may be administered by the Auditor-General or authorized official.

(3) A person described under paragraph 1 of this article must comply with a direction under this article.

(4) The regulations may prescribe scales of expenses to be allowed to persons who are required to attend under this article.

Access to premises

Article 25

(1) The Auditor-General or authorized official:

- (a) may, at all reasonable times, enter and remain on any premises occupied by the institution;
- (b) is entitled to full and free access at all reasonable times to any documents or other property;
- (c) may examine, make copies or take extracts from any documents.

(2) An authorized official is not entitled to enter or remain on premises if he fails to produce a written authority on being asked by the occupier to produce proof of his or her authority.

For this purpose, “written authority” means an authority signed by the Auditor-General that states that the official is authorized to exercise such powers.

(3) If an authorized official enters, or proposes to enter, premises under this article, the occupier must provide the official with all reasonable facilities for the effective exercise of powers under this article.

False statements

Article 26

A person must not make an oral or written statement to an audit official if the person knows that the statement is false or misleading in a(material particular.) this may be a legal term, however it does seem a little clumsy

Confidentiality of information

Article 27

(1) If a person has obtained information in the course of performing an Auditor-General function, the person must not disclose the information except in the course of performing an Auditor-General function or for the purpose of any Law that gives function to the Auditor-General.

(2) Paragraph (1) does not prevent the Auditor-General from disclosing particular information to the competent authority, if the Auditor-General is of the opinion that the disclosure is in the public interest.

Sensitive information not to be included in public reports

Article 28

(1) The Auditor-General must not include particular information in a public report if:

- (a) the Auditor-General is of the opinion that the information is sensitive information; or
- (b) the Chief Legal Officer has issued a certificate to the Auditor-General stating that, in the opinion of the Chief Legal Officer, the information is sensitive information.

(2) If, because of paragraph (1), the Auditor-General decides:

- (a) not to prepare a public report; or
- (b) to omit particular information from a public report;

The Auditor-General may prepare a report under this paragraph that includes the sensitive information concerned. The Auditor-General must give a copy of each report under this paragraph to the Presidency, Finance Minister and responsible Minister or Ministers (if any).

(3) In this article “public report” means a report which is to be tabled in the Parliamentary Assembly of Bosnia and Herzegovina. “Sensitive information” is any information whose disclosure would be contrary to the public interest for reasons of security, defense, international relations, internal relations or which would prejudice the privileged commercial

interests of any person or institution as recognized by law or accepted in normal commercial practice.

VI COORDINATING COMMITTEE OF THE SUPREME AUDIT INSTITUTIONS

Article 29

(1) There shall be established a Co-ordination Committee comprising the Auditor-Generals of the Supreme Audit Institutions of the Republika Srpska and the Federation of Bosnia and Herzegovina and Office for Auditing the Financial Operations of the Institutions of Bosnia and Herzegovina. This committee shall be chaired by the Auditor-General of the Supreme Audit Institution for the Financial Operations of the Institutions of Bosnia and Herzegovina. In the absence of the Auditor-General, the Co-ordinating Committee may be chaired by his authorised representative.

(2) The main functions of the Co-ordination Committee are to:

- (a) establish consistent audit standards;
- (b) ensure consistent audit quality;
- (c) assign audit responsibility for joint activities;
- (d) determine representation on international bodies.

The cost of the Co-ordination Committee and its Secretariat will be shared between the Supreme Audit Institutions on a basis to be determined under Regulations made in accordance with this Law.

VII QUALITY ASSURANCE IN THE AUDIT OFFICE

Independent Quality Assurance

Article 30

(1) Quality Assurance in the Audit Office shall be controlled by the Parliamentary Committee for Financial and Economic Policy.

Duties and responsibilities

Article 31

(1) The Parliamentary Committee for Financial and Economic Policy may appoint an independent Quality Reviewer who will review the work of the Auditor-General's office to establish whether such work is in accordance with the law, approved audit standards and internationally acceptable audit quality. The Quality Reviewer appointed under this article shall be an internationally recognized organization with expertise in the work of Supreme Audit Institutions. In order to carry out his work, the Quality Reviewer may examine files and other papers held by the Auditor-General, interview audit staff, accompany such staff on an audits, or carry out such other investigation work, as the Reviewer considers necessary.

(2) The Parliamentary Committee for Financial and Economic Policy shall have the same information gathering powers and shall be subject to the same secrecy provisions as are applicable to the Auditor-General under Part V of this Law.

Reporting

Article 32

The Quality Reviewer shall each year:

- (a) Submit to the Parliamentary Committee for Financial and Economic Policy a Quality Review Report on his work for the year containing conclusions and recommendations for action;
- (b) In all Reports, except the first, the Quality Reviewer will comment on the extent to which recommendations from earlier Quality Review Reports have been acted upon;
- (c) Submit the Report in draft to the Auditor-General, and the Auditor-General may within a period of 14 days make comments on the Report, which the Reviewer should take into account in preparing his final Report;
- (d) The Parliamentary Committee submits the final Quality Review Report to the Presidency for submission to each House of the Parliament; and
- (e) All quality review reports laid before Parliament in accordance with the provisions of this Law shall be recorded in the Official Gazette and be available for purchase from the Audit Office of Bosnia and Herzegovina at a fee to be decided upon by the Co-ordination Committee of the Supreme Audit Institutions.

Confidentiality of Information

Article 33

If a person has obtained information in the course of performing a function under this Part, the person must not disclose the information except in the course of performing a function.

VIII TRANSITIONAL AND FINAL PROVISIONS

Guaranteed availability of parliamentary appropriations

Article 34

The Finance Minister must issue funds in full for the amounts that the Parliament of Bosnia and Herzegovina appropriates to the Audit Office.

Auditor-General may approve expenditure

Article 35

The Auditor-General has authority to approve a proposal to spend money under an appropriation for the Audit Office.

Audit Fees

Article 36

(1) A person or institution whose financial statements are audited on its request is liable to pay audit fees for the audit, based upon a scale of fees determined by the Auditor-General with the approval of the Parliamentary Committee responsible for reviewing the Auditor-General's budget.

(2) Fees are payable within 30 days after issue of a payment claim. Payment claims for installments can be issued before the audit is complete.

(3) The Auditor-General, on behalf of the government, may recover unpaid fees as a debt in a court of competent jurisdiction.

(4) In the annual report under article 22, the Auditor-General must include details of the basis on which the Auditor-General determined the audit fees that applied during the financial year concerned.

Report Publication

Article 37

All the Auditor-General's reports laid before the Parliament of Bosnia and Herzegovina in accordance with the provisions of this Law shall be recorded in the Official Gazette of Bosnia and Herzegovina and the Official Gazettes of the Entities and be available for purchase from the Bosnia and Herzegovina Audit Office.

Freedom from direction or control

Article 38

In the exercise of his functions under this Law, the Auditor-General shall not be subject to the direction or control of any other person or institution.

Indemnity

Article 39

(1) The Government must indemnify a person for any liability that the person incurs ___ (for an Law or omission of the person in the course of performing an Auditor-General function___; indemnity does not apply if the liability arose from an Law or omission in bad faith.) I think this section needs to be reworded.

(2) The indemnity does not cover a liability of a person to the extent to which the person is entitled to be indemnified for the liability on the basis of insurance policy or otherwise.

Regulations

Article 40

The Council of Ministers of Bosnia and Herzegovina may make bylaws (regulations) prescribing matters:

- (a) required or permitted by this Law to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Law.

Penalties

Article 41

For an offence or violation committed under Articles 24(3), 25(3), 26 and 27(1) of this law the person responsible may be punished with a monetary penalty in the range of KM500 to KM10,000.

Failure to Pay Fees and Penalties

Article 42

In case of obstructing a part or whole of fees and penalties prescribed under Aarticle (VIII - Is this correct?) of this law, the Auditor General may pronounce the measure of stopping the work or blocking the bank account of the respective institution.

Application of Law

Article 43

In case of conflict with obligations prescribed under other law, this law shall prevail.

Article 44

This Law goes into effect on the eighth day since the day of its publication in the Official Gazette of Bosnia and Herzegovina, and it shall also be published in the Official Gazettes of the Entities.